

JUN 4 - 2012

FCC Mail Room

Before The

United States Federal Communications Commission**Washington, D.C. 20554**

In the Matter of

EB Docket No. 07-13

David L. Titus**FRN No. 0002074797**

Application for Renewal of

File No. 0003854219

Amateur Radio Operator License of

Amateur Radio Station KB7ILD

Amendment

COMES NOW, the Petitioner, ROBERT L LINDSEY IV, before the United States Federal Communications Commission in the District of Columbia who hereby respectfully submits his amendment, and as such amends his original petition to deny. Petitioner further request that the petition to deny be read as if the amended version had originally appeared therein as it reads now.

Robert L. Lindsey IV
Kd8orm@hotmail.com

For Petitioners

May 25, 2012

Respectfully Submitted,

By:


Robert L. Lindsey IVNo of Copies
LIS: ABCF

0+4

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Before The

United States Federal Communications Commission**Washington, D.C. 20554**

In the Matter of

EB Docket No. 07-13

David L. Titus**FRN No. 0002074797**

Application for Renewal of

File No. 0003854219

Amateur Radio Operator License of

Amateur Radio Station KB7ILD

Petition to Deny

COMES NOW, the Petitioner, ROBERT L LINDSEY IV, before the United States Federal Communications Commission in the District of Columbia who hereby respectfully submits his petition to deny renewal of the above captioned application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended (the "Act"). As demonstrated below, grant of this application would be *prima facie* inconsistent with the public interest standard set forth in Section 309(a) of the Act. Accordingly, the application for renewal of David L. Titus for Amateur Radio Station KB7ILD should be designated for an evidentiary hearing.

Robert L. Lindsey IV
Kd8orm@hotmail.com

For Petitioners

May 25, 2012

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SUMMARY

The Federal Communications Commission (the “Commission”), is the federal agency charged with the task of managing, licensing, and enforcing laws relative to telecommunications. The Commission has and continues to apply certain standards to its licensee’s as provided by Law.¹ These standers are consistently applied to all licensee’s in wired and wireless services, the character of an applicant is among many factors the Commission considers when determining whether the applicant or licensee has the requisite character qualifications to be and or remain a Commission licensee.² Section 312(a)(2) of the Communications Act of 1934, as amended (the “Act”) provides that the Commission may revoke any license if “conditions come to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application.”³

¹ See 47 U.S.C. § 308(b).

² See *Supra* note 1.

³ See 47 U.S.C. § 312(a)(2).

Allegations of relevant misconduct not related to statute enforced by the Commission⁴ will in most cases receive no consideration unless it is determined to be “misconduct so egregious as to shock the conscience and evoke almost universal disapprobation.”⁵ Not all misconduct would meet the criteria to be classified as egregious but in some cases before the Commission pertaining to a forfeiture and or revocation proceeding especially when determining character qualifications in licensing matters, the Commission considers as relevant, any evidence adduced suggesting a licensee 18 years of age or older has been conviction for misconduct constituting a felony.⁶

⁴ See *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) ((citing 1990 Policy Statement) (as to misconduct not related to the Commission generally “considers only adjudicated cases”)).

⁵ See *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1205, n.60 (1986) (“1986 Policy Statement”). See *Contemporary Media*, 214 F.3d at 192; 1990 *Policy Statement*, 5 FCC Rcd at 3253, n.5.

⁶ See *Supra* note 3.

The Commission has found that because all felonies are serious crimes, any conviction provides an indication of an applicant's or licensee's propensity to obey the law and to conform to provisions of both the Act and the agency's rules and policies. Furthermore certain felonies involving egregious misconduct "might of its own nature constitute prima facie evidence that the applicant lacks the traits of reliability and or truthfulness necessary to be a licensee."⁷ Any sexually related offence constituting a felony conviction, especially those related to children raise a material question of fact regarding the applicant or licensee's requisite character qualifications to be and or remain a Commission licensee. Sex offenders will seek to use any means necessary to accomplish their goals and fulfill their own sexually perverse desires, and that includes using any telecommunications technology at their disposal. The Commission is responsible for maintaining control over the use of the radio spectrum in a manner that promotes the public interest and convenience, individuals who engage in pedophilia cut at the heart of the Commissions responsibilities with no regard for federal laws put in place by the United States government. Misconduct of this nature only stands as an obstacle to the accomplishment and execution of the full purpose and objectives of the federal government, and severely undermines the Commissions ability to serve in the public interest.

⁷ See *Contemporary Media, Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000).

FACTUAL BACKGROUND

Under the Act an applicant is required to prove by a preponderance of evidence that their proposed transaction would serve in the public interest. Pursuant to Section 309 of the Act the Commission is required to designate an application for evidentiary hearing if a substantial and material question of fact is presented regarding whether grant of the application would serve the public interest, convenience and necessity.⁸ The objective of the federal government of the United States collectively is to serve in the public interest. The Commission is mandated by federal law to serve in the public interest, to take into account how the public interest would best be served when granting any request or making any decision especially when related to licensing matters.⁹ As provided by law¹⁰ “any party in interest may file with the Commission a petition to deny any application” the petition must include specific allegations of fact to sufficiently demonstrate “that grant of the application would be *prima facie* inconsistent” with the public interest.¹¹

⁸ See 47 U.S.C. § 309(e).

⁹ See 47 U.S.C. § 309(a).

¹⁰ See 47 U.S.C. § 309(d)(1).

¹¹ See *Astroline Communications Co. v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988); 47 C.F.R. § 1.939(d) “A petition to deny must contain specific allegations of fact sufficient to make a *prima facie* showing that the petitioner is a party in interest and that a grant the application would be inconsistent with the public interest, convenience and necessity. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.”

The Commission need not inquire as to whether such allegations are a question of law insofar that it may narrowly construe its applicability to this instant case however “The Commission must perform section 309(d)'s threshold inquiry on the basis of the petitioner's allegations alone: the Commission is limited to consideration of the petition and its supporting affidavits. Moreover, in evaluating a request for an evidentiary hearing under section 309(d)(1), the Commission must proceed ‘on the assumption that the specific facts set forth [in the petition] are true.’ *Citizens for Jazz on WRVR v. FCC*, 775 F.2d 392, 397 (D.C.Cir.1985). As we elaborated in *Gencom, Inc. v. FCC*, 832 F.2d 171 (D.C.Cir.1987).”¹² The Commission by virtue of its authority as both an adjudicatory body and a quasi-legislative body has an obligation under federal law to weigh Mr. Titus’s personal interest in pursuing his hobby against that of the public interest, and convenience.

¹² See *Supra* note 11.

ARGUMENT

The Commission should conclude that Mr. Titus lacks the traits of reliability and or truthfulness necessary to be a licensee, and is unqualified to be and remain a Commission licensee and in doing so deny Mr. Titus's pending application for renewal¹³

¹³ See ULS File No. 0003854219.

DISCUSSION

David Lee Titus is a convicted sex offender who currently resides in the State of Washington.¹⁴ By *David L. Titus* Order to Show Cause, the Federal Communications Commission commenced a proceeding to revoke the license held by Mr. Titus the purpose of this proceeding was to determine if Mr. Titus held the requisite character qualifications to be and remain a Commission licensee. A hearing was held in Washington D.C. on the 14th, 15th, and 16th day of July, 2008.¹⁵ Mr. Titus is currently the licensee of Amateur Radio Station KB7ILD, the license term for which expires on the 8th day of June, 2009. Mr. Titus has a long and extensive history of violent assaults most of which were sexually related and the Chief Administrative Law Judge presiding over the case failed to consider the nature of Titus's sexual offenses against children. Mr. Titus was born on August 15, 1974¹⁶ by the time he was 11 years of age he had already acquired 52 sex partners¹⁷ after the age of 11 all of Mr. Titus's sexual partners were male and by the age of 16 Mr. Titus claimed to have acquired over 150 sexual partners still by the time he was 18 years old this number continued to increase to 350.¹⁸ It is important to note that not all of Mr. Titus's sex partners were consenting. When Mr. Titus was 10 years of age he was charged with Indecent

¹⁴ See Exhibit. 4, 5

¹⁵ See Order to Show Cause, 22 FCC Rcd 1638 (Enf. Bur. 2007) ("OSC"), EB Docket No. 07-13

¹⁶ See Enforcement Bureau Exhibit. 4, p. 1, 3, 5, 6, 11; Transcript. 511

¹⁷ Transcript. 1081

¹⁸ Transcript. 524

Liberties for anally raping a 6 year old boy who he promised candy¹⁹ the charge was later dismissed by the court as long as Titus attended counseling.²⁰ In November of 1985 just three months after his counseling ended, Titus at the age of 11 assaulted and anally raped an 8 year old boy who was visiting his brother at the time this incident occurred.²¹ Titus refused to stop the rape even when told to do so by the victim. Titus later admitted to counselors the he molested this very same victim on several occasions and threatened to physically harm the boy if he did not do as he was told. Sometime in April of 1986 Titus pled guilty to taking Indecent Liberties in Benton County Juvenile Court and later received a “Manifest Injustice” sentence of 65 weeks at Echo Glen Children’s Center²² during his incarceration he received sex offender treatment but became sexually involved with other youths.²³ On or about December of 1989 at the age of 15 Mr. Titus fondled a 12 year old boys penis and threatened to physically harm the boy if he did not touch Mr. Titus’s penis.²⁴ The first attack appeared to have taken place on the floor of a school bathroom.²⁵

¹⁹ See Enforcement Bureau Exhibit. 4, pp. 17; Transcript. 518-519

²⁰ See Enforcement Bureau Exhibit. 4, p. 17; Transcript. 520

²¹ See Enforcement Bureau Exhibit. 4, pp. 14, 17

²² See Enforcement Bureau Exhibit. 4, pp. 14, 17; Transcript. 525 (a “Manifest Injustice” sentence is a sentence that is above the normal range and was handed down to Mr. Titus due to the egregious nature of his felony convictions).

²³ See Enforcement Bureau Exhibit. 4, p. 18

²⁴ See Enforcement Bureau Exhibit. 4, p. 14; Transcript. 536-38

²⁵ See Enforcement Bureau Exhibit. 4, p. 14; Transcript. 536, 538

Mr. Titus was again sentenced to “Manifest Injustice” and received 65 weeks of confinement.²⁶ On or about April of 1990 Mr. Titus was again charged with taking Indecent Liberties for fondling the same victim in a Taco Bell bathroom.²⁷ The charges against Mr. Titus was later dismissed due to the fact that the victim was unable to testify.²⁸ In July of 1991 after being released from prison²⁹ Mr. Titus now 16 years of age moved in with a “family friend” by the name of Dennis Creswell, a 51 year old homosexual male that Titus previously had sexual relations with at a younger age.³⁰ In December of 1992 Titus at this time 18 years of age then an employee of a local gym began to engage an 11 year old boy in sexually explicit conversations about penis sizes Titus even requested that the youngster measure his own flaccid and erect penis and encouraged the boy to show his penis to Titus.³¹ This resulted in Mr. Titus’s 3rd felony conviction for Communication With a Minor for Immoral Purposes.³² It was during this time while incarcerated he received a “major infraction” for “having oral and anal intercourse with a developmentally disabled inmate housed in the same unit on four to five occasions over a four month period.” Mr. Titus continued to engage in disturbing behavior even after receiving a

²⁶ See Enforcement Bureau Exhibit. 4, p. 14

²⁷ See Enforcement Bureau Exhibit. 4, p. 14; Transcript. 537-38

²⁸ See Enforcement Bureau Exhibit. 4, p. 14

²⁹ See Enforcement Bureau Exhibit. 4, p. 32

³⁰ See Enforcement Bureau Exhibit. 4, p. 32; Transcript. 541-42, 546

³¹ See Enforcement Bureau Exhibit. 4, pp. 3-10; Transcript. 547-51

³² See Exhibit. 4, 5

“major infraction” with no regard for the rules and regulations put in place by prison officials. Mr. Titus began masturbating excessively 10 to 15 per day as well as having constant fantasies about raping young boys.³³ The fantasies about raping young boys became so pervasive that Titus started receiving Depo Provera medical treatment. It appears that this treatment began to work by controlling his masturbation and rape fantasies, however after three injections Titus refused to receive any further treatment and eventually he began to experience more rape fantasies.³⁴ During the hearing Mr. Titus did not deny the accuracy of records and or documents presented but refused to affirm any portion of those documents that would cast a negative light on him³⁵ such as the statements made by Officer Wong regarding a traffic incident and an apparent assault committed by Mr. Titus³⁶ or the rebuttal testimony offered by Officer Jennifer Franklin regarding an incident where Mr. Titus was found in a “darkened boys bathroom” around 3:00am in the morning where it appears the “Mr. Titus was in violation of the law to be in the park and its restrooms after hours.”³⁷ The Commission has found that any sexually related offence constituting a felony relating to the abuse of children is specifically the type of offence

³³ See Enforcement Bureau Exhibit. 4, p. 28

³⁴ See Enforcement Bureau Exhibit. 4, p. 28; Transcript. 565

³⁵ The Enforcement Bureau Exhibits as well as the petitioner’s Exhibit document are relevant and reliable records kept in the course of business by disinterested third parties and, as such, they have the requisite indicia of relevance, accuracy, and reliability to be considered substantial evidence in this proceeding. *See Willingham v. Gonzales*, 391 F.Supp.2d 52 (D. D.C. 2005); *EchoStar Comm’n’s Corp. v. FCC*, 292 F.3d 749, 753 (D.C. Cir. 2002); *Richardson v. Perales*, 402 U.S. 389, 403-406 (1971).

³⁶ See Exhibit. 1, 2

³⁷ See Exhibit. 3 (citing rebuttal testimony of Officer Jennifer Franklin).

that would constitute revocation of a license and or disqualification to hold such license. The federal courts have supported this very same approach in *Contemporary Media v. FCC* the United States Court of Appeals for the District of Columbia ruled that “it is hardly irrational to conclude that if an individual is unwilling to obey the law with respect to such patently criminal behavior as sexual assault on children, he will be equally unwilling to obey FCC rules that require openness and honesty with the Commission.”³⁸ In regards to Mr. Titus is clear that he lacks the requisite character qualifications to be and remain a Commission licensee. Moreover even in the absences of such misconduct that could potentially render Mr. Titus unqualified to hold a Commission license it is apparent that Mr. Titus has displayed deceptive and dishonest behaviors when dealing with any entity of authority.³⁹ Mr. Titus’s felony conviction⁴⁰ itself raises a substantial and material question of fact as to his qualifications to be and remain a Commission licensee and may warrant revocation of his license under the Act.⁴¹

³⁸ See *Supra* note 7.

³⁹ See Exhibit. 1, 2, 3

⁴⁰ Mr. Titus would have the Commission conclude that he has only one (1) felony conviction by disregarding his two (2) juvenile felony convictions for violent sexual assaults against children but according to the Juvenile Courts and Offender section of the Washington State Code “adjudication” has the same definition and meaning as “conviction.” See *RCW 9.94A.030* furthermore the terms must be “construed identically and used interchangeably.” See *RCWA Section 13.04.011*

⁴¹ See 47 U.S.C. § 312; *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 FCC 2d 1179, 1196-98 37 (1986), *recon. denied*, 1 FCC Rcd 421 (1986), *appeal dismissed sub nom. National Association for Better Broadcasting v. FCC*, No. 86-1179 (D.C. Cir. Jun. 11, 1987); Fed. R. Evid. 609(a)(2) (permits introduction of any criminal conviction, regardless of punishment, involving dishonesty including but not limited to crimes such as perjury).

Although it has been clearly demonstrated in this petition and proven beyond a preponderance of evidence by the Enforcement Bureau of the Federal Communications Commission that Mr. Titus (a) has not been rehabilitated (b) does not hold the requisite character qualifications to be and remain a Commission licensee the Chief Administrative Law Judge Richard L. Sippel concluded that Mr. Titus was qualified to be and remain a Commission licensee as well as hold the requisite character qualifications necessary to be a Commission licensee. It is apparent the Judges *Initial Decision* in its entirety was flawed furthermore the hearing at its inception would have been flawed due to the fact that the Judge arbitrarily refused to allow the Enforcement Bureau to present certain evidence that is critical to a proper assessment of this case, evidence such as the expert testimony of Gerry Hover a psychologist or the rebuttal testimony of Officer Jennifer Franklin as well as the testimony of Victoria Halligan and Officers Mark Wong and Susan Wong. The Commissions most recent policy statement is over 20 years old and is not properly tailored to address the issues raised in any proceeding dealing with a known registered sex offender. In the case of David L. Titus the presiding Administrative Law Judge erroneously as a matter of law, applied the Commissions 1986, and 1990 Policy Statements in his *Initial Decision*, and as a result misinterpreted the Commissions Policy Statement's.⁴²

⁴² See Policy Regarding Character Qualifications in Broadcast Licensing, Policy Statement and Order, 5 FCC Rcd 3252 (1990); Policy Regarding Qualifications in Broadcast Licensing, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986).

For the reasons established in exhibit 6 the Commission should conclude that such blatant dishonesty in regards to Mr. Titus's testimony in EB Docket 07-13 would be sufficient in finding Mr. Titus lacked candor in dealing with the Commission. Under such circumstances if the Commission concludes that Mr. Titus made false representations either orally or in writing to the Commission as well as lied under oath either of which is a federal offence it would be appropriate it to asses a forfeiture as well as faward this case to the United States Department of Justice for investigation of potential crimes committed by Mr. Titus which are specified in exhibit 6.

CONCLUSION

WHEREFORE, Petitioner respectfully request that the Commission assume jurisdiction of this matter and enter an order in favor of the petitioner declaring that:

- 1.) The Commission will conclude that Mr. Titus lacks the traits of reliability and or truthfulness necessary to be a licensee.
- 2.) Mr. Titus is unqualified to be and remain a Commission licensee.
- 3.) The Commission will refer this case as well as the declaration contained in exhibit 6 to the United States Department of Justice or other duly authorized law enforcement agency for investigation of potential violations of federal laws.
- 4.) In addition to a criminal investigation by the United States Department of Justice or other duly authorized law enforcement agency for potential violations of federal laws committed in EB docket No. 07-13 the Commission will asses a forfeiture against Mr. Titus for violating Commission rules and regulations pertaining to false representations.
- 5.) The Commission will deny Mr. Titus's above captioned application for renewal.

Respectfully Submitted,

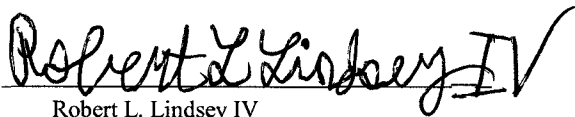
By: 
Robert L. Lindsey IV

EXHIBIT 1



SEATTLE
POLICE
DEPARTMENT

STATEMENT FORM

GENERAL OFFENSE #
02.008487
RELATED EVENT#

Date: 05 SEP 08	Time: 1300	Place: TRAFFIC ENFORCEMENT
Statement of: <input type="checkbox"/> Complainant <input type="checkbox"/> Witness <input type="checkbox"/> Victim <input checked="" type="checkbox"/> Officer <input type="checkbox"/> Other:		
Name (Last, First MI)		DOB
Statement Taken By: S. WONG		Serial 5434 Unit B271E
Transcribed by (Taped/Translated Statements)		Serial Unit

I, Sue Wong, am an Officer with the Seattle Police Department. Seattle police officer, Mark Wong, and I were involved, on behalf of SPD, in investigating a complaint alleging an assault by David L. Titus following a traffic incident on January 6, 2002 in which he backed his vehicle into another vehicle driven by Victoria E. Halligan. I clearly recall the investigation. I met with Ms. Halligan and heard her general statements given to Ofc. Wong about the assault. She appeared distraught and scared of Mr. Titus. While Mark continued to interview Ms. Halligan, I contacted Mr. Phunsavath, the friend who Mr. Titus was visiting immediately prior to the incident (Mr. Phunsavath's address is within 50 ft of the accident). Because I left Ofc. Wong and Ms. Halligan, I did not see the cut on her hand. Mr. Phunsavath gave me the phone number for Mr. Titus.

I called Mr. Titus to question him regarding the incident but he refused to meet with me or to provide his location. He confirmed that he and Ms. Halligan had a confrontation and that he grabbed her wrist and twisted it. I asked Mr. Titus if he was a police officer. He stated, "no." I asked him why he gave Ms. Halligan the impression that he was a police officer. Mr. Titus did not answer, instead, he stated that his father was an officer for the Pasco Police Department. I asked Mr. Titus for his father's name and contact info but he refused to provide both. He then told me that he also had friends who were police officers for the Seattle Police Department. I asked Mr. Titus the names of those officers but, again, he refused to identify those friends. He was uncooperative, evasive, and obtuse when answering my questions and refused several times to return to the scene.

After speaking with Mr. Titus, I was concerned about his behavior during the traffic altercation and worried that he might present a threat to the community. I informed Ofc. Wong of my conversation with him. Consequently, Ofc. Wong and I returned to the precinct to follow-up on our investigation. I called the Pasco Police Department in an effort to determine whether his father was a Pasco Police Officer and, if so, to speak with him. I spoke with an officer who stated that there was no officer named "Titus." He referred me to a Sergeant. The Sergeant also verified there was no officer named "Titus."

I have reviewed the incident report and the statements in it are truthful and accurate.

Under penalty of perjury, I state that the foregoing is true and correct to the best of my knowledge and belief.

Susan Wong

Seattle Police Department

Seattle, Washington

Witness
Witness

X

EXHIBIT 2

SEATTLE POLICE DEPARTMENT
Officer Statement

INCIDENT NUMBER
2002-008487

DATE 9/8/2008

TIME 0230

PLACE City of Seattle, State of Washington

STATEMENT OF: Officer M.H. Wong 5885/442

I am a sworn and certified Police Officer for the City of Seattle and have been so employed since 1993. This statement is provided at the request of the Investigations and Hearings Division, Enforcement Bureau, of the Federal Communications Commission.

On Sunday, January 6, 2002, I was working as a Patrol Officer in the East Precinct of Seattle in King County, Washington. On that date at about 1615 hours, I responded to a traffic collision and related disturbance in the 2200 block of Yale Avenue East. The complainant/victim, Ms. Victoria Halligan, called 911 for police assistance. She reported that at about 1600 hours she was trying to parallel park her vehicle in this block, then the suspect, Mr. David L. Titus, backed into her car from a driveway. I was the primary responding officer for this incident, and I have a clear recollection of Ms. Halligan's complaint. I believe the 911 call receiver noted that the complainant was "crying and distraught" when she called, and I distinctly remember that when I arrived several minutes later, Ms. Halligan was still clearly shaken and upset. She was hesitant to make this report because she feared Mr. Titus.

She described the collision to me, and stated that Mr. Titus was verbally aggressive. Because Ms. Halligan's vehicle was already in the main roadway when Mr. Titus' vehicle backed into the roadway from a driveway, in my opinion and based upon Washington State's traffic laws, Mr. Titus was at fault in the collision. Ms. Halligan said Mr. Titus, nevertheless, yelled for her to admit she was at fault, and accused her of not looking where she was going. Furthermore, she said Mr. Titus would not provide his driver's, vehicle, or insurance information. But what really frightened her was when Mr. Titus aggressively lunged forward at her and she had to put her hands up in defense. She showed me how she had her arms in front of her body, elbows pointed downward and slightly bent, her palms forward towards Mr. Titus, and her fingertips pointed upward. The motions she made, showing me what she had done, appeared to be communicating a defensive "woah" or "hold on now" message. However, she said Mr. Titus then yelled that she assaulted him with this motion, and he grabbed her right hand and bent her palm inward and towards her body. Based on her description and demonstration of the move used by Mr. Titus, it is apparent that Mr. Titus used a reverse gooseneck submission hold against Ms. Halligan. This hold is commonly used by law enforcement to control unruly persons and, if sufficient force is applied, can damage or break a person's wrist. This caused pain in Ms. Halligan's right hand and wrist, and she showed me a small laceration on her right forefinger at the knuckle. That cut had been bleeding, possibly pinched by Mr. Titus, caught by a ring or other jewelry, or snagged by his fingernail.

His intimidation continued, stating she did not know who he was or what he had. Ms. Halligan told me she was very concerned that Mr. Titus was a police officer acting very inappropriately, or someone impersonating a police officer. She even asked if he was a cop, and he said he was not going to tell her. Ms. Halligan was so concerned for her safety, she quickly left without looking at her car for damage. She also did not feel comfortable providing her personal information (for an accident exchange of information) but instead, called 911.

Seattle Police Officer Sue Wong completed the investigation at the site of the collision, where she spoke with an associate of Mr. Titus in person, then with Mr. Titus over the telephone. Some of his comments alluded to an interest or familiarity with law enforcement officers or procedures. Neither Ms. Halligan nor Mr. Titus wanted a police report for the collision or following assault/disturbance.

However, Officer Sue Wong and I reviewed our concerns that Mr. Titus could attempt or may have attempted to impersonate a police officer. I completed an incident report under 2002-008487 and forwarded this information to our Seattle Police Special Assault Unit and our Seattle Police Internal Investigations Section. These are the two likely units who would investigate a citizen complaint of officer impersonation.

I have reviewed incident report 2002-008487 and the related memorandum and they are true and accurate to the best of my knowledge.

STATEMENT TAKEN BY:

SIGNED:

WITNESS:

WITNESS:

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER

2002-008487

DATE 9/8/2008

TIME 0230

PLACE City of Seattle, State of Washington

STATEMENT OF:

I hereby certify or declare under penalty of perjury under the laws of the State of Washington that this statement is true and correct to the best of my knowledge and belief. (RCW 9A.72.085)

Officer Mark Wong #5885
Seattle Police Department
City of Seattle, County of King, State of Washington

STATEMENT TAKEN BY:

SIGNED:

WITNESS:

WITNESS:

EXHIBIT 3

Rebuttal Testimony of Jennifer Franklin,

Mercer Island Police Department

My name is Jennifer Franklin. I am a police officer for the Mercer Island, Washington Police Department. If called to provide oral rebuttal testimony at the hearing in EB Docket No. 07-13, I would testify as follows:

I have been a police officer for the Mercer Island Police Department for 18 years most of which has been in patrol, crime prevention and now Emergency Management. I was involved on behalf of the department in investigating an incident on July 7, 2004 involving David L. Titus. I clearly remember this incident and recently testified about it in a hearing in Benton County, Washington regarding Mr. Titus' petition to dismiss the legal requirement that he register as a sex offender. Mr. Titus' petition was denied by the court.

As stated in more detail in the Case Report 04P-0963, at approximately 3:00 a.m. PST, I found Mr. Titus in the darkened boys' bathroom at the South Mercer Playfield on Mercer Island. The park and its facilities, including its restrooms, were closed at that time, and Mr. Titus was in violation of the law to be in the park and its restrooms after hours. Mr. Titus stated that he was in the area to meet a "friend" he knew through ham radio. Mr. Titus later changed his story, stating that his friend Charles was not part of a ham radio group but someone he actually did not know who he had met over the internet and met earlier at a nearby street corner.

When questioned about his "friend," his activities, and what appeared to be law enforcement-related items in his possession, Mr. Titus was nervous and defensive. When questioned about the apparent law enforcement-related items in his possession, he told me that he was not a police officer but that his father was a police officer for the Pasco Police Department and that his girl friend was a deputy with King County. He refused to provide his father's name or contact information.

Mr. Titus was uncooperative during the incident and, based upon my many years of experience as a police officer dealing with the public, I think that his responses and behavior were dishonest and deceptive.

I have reviewed the incident report and the statements in it are truthful and accurate.

Under penalty of perjury, I state that the foregoing is true and correct to the best of my knowledge and belief.

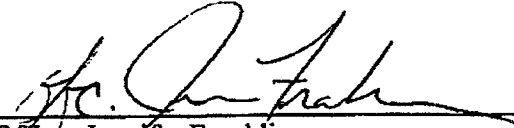

Officer Jennifer Franklin
Mercer Island Police Department
Mercer Island, Washington

EXHIBIT 4

BENTON COUNTY
JUL 13 1993

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF BENTON

STATE OF WASHINGTON,

NO. 93-1-00035-2

Plaintiff,

E

1378

vs.

JUDGMENT AND SENTENCE
PRISON

DAVID L. TITUS.
DOB: 8/15/74

Defendant.

705972
4-22-93

RECEIVED
JUL 13 1993

This matter having come before the Court for a sentencing hearing this date; the defendant having been convicted by:

(XX) his guilty plea on March 12, 1993, of
() jury verdict on, of

Communication With a Minor For Immoral Purposes
RCW 9.68.090 - A Felony

committed on or about December 9, 1992 in Benton County, Washington; the defendant being present and represented by his attorney, Larry Zeigler; the defendant having been asked if he wished to make a statement on his own behalf and to present any information in mitigation of punishment; and the Court being fully advised, makes the following:

FINDINGS OF FACT

1. The defendant's prior convictions are:

Offense/Date	Disposition/Date
Ind. Liberties 11/1/65 (Juv.)	65 Weeks 4/16/86
Ind. Liberties 12/15/89 (Juv.)	65 Weeks 2/34/90

2. The presumptive sentencing range is as follows:

Offense/Date	Disposition/Date		
Comm.W/Minor	22-29 years	III	6

3. The defendant's current multiple offenses

() do not involve the same criminal conduct.
() do involve the same criminal conduct.

4. The defendant was duly informed by special allegation and the court/jury finds/found that () defendant () an accomplice was armed with a deadly weapon as defined by RCW A.125 at the time of the commission of the offense in count(s) _____ and _____ months is to be added to the presumptive sentencing range.

JUDGMENT AND SENTENCE
PRISON

Rev. 2/92

5. The maximum ~~time~~ for the offense(s) is:

5 years and/or \$10,000 fine

6. The defendant owes restitution to the victim(s) in this case in the amount of \$_____. The following victims are entitled to restitution in these amounts:

TO BE DETERMINED WHEN COUNSELING COMPLETE VC 12626

7. The defendant has served 79 days in confinement before sentencing which confinement was solely in regard to the offenses) for which the defendant is being sentenced.

From the foregoing Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. The Court has jurisdiction of the defendant and the subject matter.

2. The defendant is guilty of the crime(s) of:

Communication With a Minor for Immoral Purposes
RCW 9.68A.090 - a Felony

3. The defendant is a first time offender pursuant to RCW 9.94A.120(5) and the Court waives the imposition of a sentence within the presumptive sentencing range.

4. There are substantial and compelling reasons to justify an exceptional sentence. Findings are attached.

JUDGMENT AND SENTENCE

The Court having determined that no legal cause exists to show why judgment should not be pronounced, it is therefore ORDERED, ADJUDGED and DECREED as follows:

1. The defendant shall be sentenced to a term of 25 months confinement to be served pursuant to RCW 9.94A.190 commencing 1/5/91 ☐ concurrently ☐ consecutively with forfeiture of license

2. Credit for 79 days served prior to this date is given.

3. The defendant ~~shall report~~ to and be available for contact with the assigned community corrections officer as directed upon release from prison.

JUDGMENT AND SENTENCE
PRISON

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- (x) 4. The defendant shall be on community placement for a period of 24 months upon either release from confinement or transfer to Community custody. Conditions of community placement include that the defendant:

shall work at a Department of Corrections-approved education, employment, and/or community service;

shall not consume controlled substances except pursuant to lawfully issued prescriptions;

shall pay community placement fees as determined by the Department of Corrections;

(xx) shall not possess controlled substances;

(xx) shall not have any direct or indirect contact with Danny Suarez and his immediate family or children under the age of 16. Violation of this order is a criminal offense under RCW 10.99 or RCW 91A.46 and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony;

(xxj) shall participate in crime-related treatment or counseling services as directed by community corrections officer;

() shall not consume alcohol;

(xx) shall have prior approval of community corrections officer before selecting or changing residence location or living arrangements;

(xx) shall not peruse any explicit sexual material as defined by his therapist and/or community corrections officer;

(xx) shall submit to and pay for polygraph examinations as directed by his therapist and/or community corrections officer;

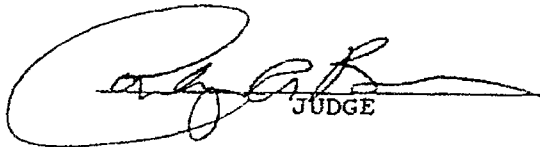
(xx) shall submit to and pay for plethysmograph examinations directed by his therapist and/or community corrections officer;

5. The defendant shall pay court costs in the sum of \$147.00; reimbursement of court appointed attorney fees of \$250.00; a penalty assessment in the amount of \$100.00 pursuant to RCW 7.68.035 and a fine of \$_____. Said sums to be paid to the Benton County Clerk, 7320 W. Quinault, Kennewick, Washington by cash, cashier's check or money order in payments as scheduled by the defendant's community corrections officer with full payment no later than 18 months probation

JUDGMENT AND SENTENCE
PRISON

6. The defendant shall make restitution as indicated in Findings of Fact #6 which shall be payable to the Clerk of Court, 7320 W. Quinault, Kennewick, Washington by cash, cashier's check or money order in payments as scheduled by the defendant's community corrections officer with full payment no later than
-
7. The court hereby retains jurisdiction over the defendant for a period of ten (10) years to assure payment of monetary obligations and the Department of Corrections shall be responsible for assuring defendant's compliance with this provision. To assure compliance, the defendant is ordered to report to the Department of corrections within 24 hours of **release** from confinement or date of **this** order to allow the Department of Corrections to monitor payment.
- xx) 8. Defendant shall not have contact with the victim(s) Danny Suarez and immediate family or minors under the age of 16 for a period of ten (10) years. Violation of this order is a criminal offense under RCW 10.99 or RCW **9A.46** and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony.
- xx) 9. Defendant shall submit to the custody of the Benton County Sheriff's Office for a blood draw for purposes of DNA identification and classification. The defendant shall not be released from the sheriff's custody until such blood draw is completed. Said blood draw shall be completed within seven (7) days of this order.
- xx) 10. Defendant shall submit to the custody of the Washington State Corrections for HIV testing, pretest and posttest counseling through the Washington State Department of Corrections.
- xx) 11. Within 30 days of release from custody the defendant shall provide the Benton County Sheriff's Office with his/her name, address, place of employment, crime for which he/she is convicted, date, and place of conviction, aliases used and social security number. If the defendant changes residences either within Benton County or outside of this county, he/she must provide this same information in writing to the sheriff in that county within 10 days of the move along with a copy to the sheriff with whom the defendant last registered. A violation of this order is a criminal offense and will subject a violator to arrest.

Done in open court this 10th day of April, 1993 in the presence of the defendant, his/her attorney and the Deputy Prosecutor.


JUDGE

JUDGMENT AND SENTENCE
PRISON

EXHIBIT 5



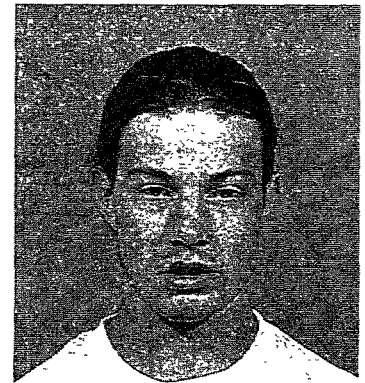
Offender Search: Offender Details

Details

Name: DAVID LEE TITUS **Registration #:** 3169
Aliases: CRESSWELL
Level: Level III

Physical Description

• **Age:** 37 • **Height:** 5'08"
• **Sex:** M • **Weight:** 150lbs
• **Race:** Caucasian • **Eyes:** Brown
• **Hair:** Brown
• **Scars/Tattoos:** on L_leg (DISC L LEG)



DAVID LEE TITUS

Address

1500 block of BOYLSTON AV
SEATTLE, WA 98122

[Submit a tip or correction for
this offender](#)

Offenses

• **Description:** 9.68A.090 - Communication with minor for immoral purposes
[View this statute](#)
• **Date Convicted:** 04/16/1993
• **Conviction State:**
• **Date Released:**
• **Details:**

[Register to track this offender](#)

Comments

EXHIBIT 6

DECLARATION of Robert L. Lindsey IV

STATE OF OHIO

COUNTY OF FRANKLIN

To the United States Federal Communications Commission, the Enforcement
Bureau of the United States Federal Communications Commission Greetings:

WHEREAS, there has been filed with you in the District of Columbia a
declaration under penalty of perjury executed in the State of Ohio

I, Robert L. Lindsey IV depose and says that I have good cause to believe and do
believe that: David Lee Titus committed the offence of, Making False Statements
and or Representations in violation of 18 U.S.C. § 1001, in that he knowingly and
willfully falsified, concealed and covered up by way of trick, scheme or device a
material fact regarding his criminal and sexual activity; committed the offence of,
Obstruction of Justice by Deception/Perjury in violation of 18 U.S.C. § 1621, in
that he gave false, fictitious and fraudulent testimony concerning a material matter
with the willful intent to provide false testimony; committed the offence of
Obstructing Administrative Proceedings in violation of 18 U.S.C. § 1505, in that
he intentionally endeavored corruptly to influence, obstruct or impede the due
administration of justice before an agency of the United States by way of
fraudulent, misleading and fictitious testimony in EB Docket No. 07-13.

The facts upon which such belief is based are as follows: Some time in 2008 Mr.

Titus filed a petition in Benton County court asking the court to no longer require him to register as a sex offender in the State of Washington however the petition was denied (*Washington v. David Lee Titus*, Benton No. 93-1-00035-2, Order (September 8, 2008)). Mr. Titus testified in EB Docket No. 07-13 before Chief Administrative Law Judge Richard L. Sippel under oath and affirmation in the District of Columbia. Mr. Titus testified as follows; he claimed to be a “model citizen” despite the fact that he is a convicted felon and a registered sex offender in the State of Washington who at the age of 11 assaulted and anally raped an 8 year old boy who was visiting his brother. On or about December of 1989 at the age of 15 Mr. Titus fondled a 12 year old boy’s penis and threatened to physically harm the boy if he did not touch Mr. Titus’s penis. In December of 1992 Mr. Titus at this time 18 years of age then an employee of a local gym began to engage an 11 year old boy in sexually explicit conversations about penis sizes Mr. Titus even requested that the youngster measure his own flaccid and erect penis and encouraged the boy to show his penis to Mr. Titus. This resulted in Mr. Titus’s 3rd felony conviction for Communicating With a Minor for Immoral Purposes. It was during this time while incarcerated he received a “major infraction” for “having oral and anal intercourse with a developmentally disabled inmate housed in the same unit on four to five occasions over a four month period.” Mr. Titus in furtherance of his intentionally corruptly endeavor to influence, obstruct or impede

the due administration of justice before an agency of the United States gave false testimony in EB Docket No. 07-13 claiming that he has been law abiding for over 15 years (Titus Ex. 1 at 9, 11; Tr. 1103-1105). This statement however is directly refuted by his own admission in Benton County court that during this time he had sex in public parks and restrooms, acts which are in violation of the law.

(*Washington v. David Lee Titus*, Benton No. 93-1-00035-2, Hearing Transcript. 40-41 (August 8, 2008)).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 30th day of May, 2012.



Robert L. Lindsey IV

CERTIFICATE OF SERVICE

I, Robert L. Lindsey IV, hereby certify that on this 31th day of May, 2012, a copy of the foregoing Amendment and Petition to Deny is being served via regular United States mail to the following:

George L. Lyon, Jr., Esquire
8300 Greensboro Dr.
Suite 1200
McLean, VA 22102

William Knowles Kellett, Esquire
Judy Lancaster, Esquire
Investigations and Hearing Division
Federal Communications Commission
445 12th St., S.W.
Room 4-C330
Washington, D.C. 20554

(Signature) 
Robert L. Lindsey IV